Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
	)	

To: The Commission

OPPOSITION TO PETITION FOR RECONSIDERATION

The Alliance of Rural CMRS Carriers

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August 4, 2005

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SUMMARY

TDS Telecommunications, Independent Telephone & Telecommunications Alliance, and Western Telecommunications Alliance have failed to provide a single legitimate argument in favor of their requested for reconsideration of the Commission's March 17, 2005, *Report and Order*. Regrettably, the bulk of the advocacy contained in their Petition amounts to a request for ILEC protection, to the detriment of rural consumers who stand to benefit from increased availability of competitive services using alternative technologies.

The Petitioners' arguments for requiring wireless ETCs to provide 100% coverage within five years of designation are without merit. The Commission and state commissions have properly rejected such a standard, which could not possibly be competitively neutral. Indeed, wireline carriers – whose service only extends to the end of a wire and therefore only cover a fraction of the territory that can be covered by wireless signal – could never meet such a standard. Moreover, the Petitioners' demand for instant ubiquity ignores the fact that even heavily subsidized rural ILEC networks took decades to expand gradually outward from population centers into more rural areas. At bottom, the Petitioners' proposal, in conjunction with its belief that competitive ETCs should be paid on their own costs, would result in wasteful cost recovery for network investments with no incentives for efficiency. As ARC has advocated previously in this docket, the current mechanism for paying competitors works.

The Commission should also reject the Petitioners' unjustified calls for support benchmarks and other arbitrary devices to restrict competition. Per-line benchmark proposals have been properly rejected by the Commission and at least one state commission where the issue was given exhaustive treatment. ARC can think of no proposal that would be more anticompetitive or harmful to rural consumers, who are today benefiting from network construction by competitive ETCs.

The Petitioners' arguments for mandating state commissions to abide by the Commission's new designation criteria are similarly unavailing. The statute could not be more explicit in granting states exclusive jurisdiction over ETC designations unless they affirmatively cede jurisdiction to the FCC. Moreover, it is ironic that the Petitioners cite the need for states to more rigorously police waste, fraud and abuse of the high-cost program, given that in state rulemaking proceedings ILECs have opposed tighter oversight of all ETCs' universal service support. States are taking seriously their obligation to ensure that consumers receive the benefits of improved service quality and new investment in network facilities, and are already requiring ETCs to provide detailed information on expenditures.

Lastly, the Commission acted properly in ruling that carriers with petitions pending prior to the effective date of the new rules will have their petitions processed under the regulatory framework they relied on at the time they filed their petitions. A year's grace period for such carriers to achieve compliance with the annual reporting requirements is appropriate, given the substantial planning and

adjustments involved. The Petitioners provide no legitimate reason to hold carriers to yet-to-be-adopted requirements, and their suggestion that past grants should be revoked ignores basic principles of administrative law.

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The Alliance of Rural CMRS Carriers ("ARC"), by counsel and pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. Section 1.106, hereby files this opposition to the Petition for Reconsideration ("Petition") filed by The Independent Telephone and Telecommunications Alliance, the Western Telecommunications Alliance, and TDS Telecommunications ("Petitioners") on June 24, 2005.[1] The petitioners seek reconsideration of the Commission's *ETC Report and Order* which established new rules for the FCC's designation of eligble telecommunications carriers under 47 U.S.C. Section 214(e)(6) and provided guidance for state

[1] ARC is a group of CMRS carriers who are licensed to serve rural areas in Colorado, Nebraska, Guam, Virginia, West Virginia, Alaska, Michigan, Minnesota, Wisconsin, Iowa, Maine, Vermont, New Hampshire, Washington, Alabama, Mississippi, South Dakota, Kansas, Oklahoma, and Oregon. ARC's membership is comprised of the following carriers (or their subsidiaries): Alaska DigiTel, LLC, Cellular South Licenses, Inc., Guam Cellular and Paging, Inc., Highland Cellular, LLC, Midwest Wireless Communications, LLC, N.E. Colorado Cellular, Inc., Rural Cellular Corporation, RFB Cellular, Inc., and Virginia Cellular, LLC.

commissions to consider when making similar designations under 47 U.S.C. Section 214(e)(2).[2]

For the reasons set forth below, the Petition should be denied.

I. Introduction.

Rural consumers overwhelmingly want high-quality wireless service and they deserve it because they pay into the federal high-cost universal service fund. Yet in many rural areas of the country they remain frustrated because roughly 90% of the high-cost fund is funneled to mature wireline networks. The entire purpose of this proceeding has been to develop predictable rules governing the distribution of universal service subsidies to diligent carriers that are willing to comply with reasonable requirements to be designated and to maintain designations. The Petitioners represent a threatened class of carrier that continues to advocate anticompetitive positions that are contrary to the plain language of the federal statute.

There is a growing recognition that rural ILECs are benefiting disproportionately from the universal service program, to the detriment of consumers who might benefit from alternative service providers. Just last week, the editors of the *Journal Star* in Lincoln, Nebraska, wrote:

> In rural Nebraska much of the phone service is provided by small phone companies that rely heavily on the $60 million in taxes collected every year from Nebraska phone companies.

[2] *Federal-State Joint Board on Universal Service*, *Report and Order,* 20 FCC Rcd 6371 (2005) ("*ETC Report and Order*").

> So far the Public Service Commission has declined to use money from the fund to help wireless companies provide service in rural Nebraska. Since some areas in Nebraska are sparsely populated there is little financial incentive for wireless companies to provide service on their own.
>
> But wireless technology is no longer experimental. In urban areas increasing numbers of phone customers have chosen to drop their landlines and to use cell phones exclusively.
>
> Meanwhile the universal service fund continues to funnel millions of dollars from urban phone customers to companies using old technology to serve rural areas in the state.
>
> A bill that [Senator Mike] Foley introduced on the topic stalled in the Legislature last year. But an interim legislative study, including a public hearing this fall in western Nebraska, is now underway. The Public Service Commission also has launched a study that will include a public hearing.
>
> One way illustration of the cost-effectiveness of wireless phone service is its popularity in Third World countries, some of which basically leapfrogged over the wired stage altogether. If people in the Third World can use wireless phone service, it's hard to understand why rural Nebraska should remain stuck in the past.[3]

ARC could not agree more with the Petitioners' views that the federal high-cost fund must be prudently managed and that waste, fraud and abuse should be curtailed. Yet we can find nothing in the FCC's CC Docket 96-45 proceeding, dating back many years, evidencing any company allied with the Petitioners expressing a willingness to participate in such efforts, other than to focus entirely on cutting support to wireless carriers. In fact, when the FCC capped certain aspects of the

[3] *Lincoln Journal Star*, July 31, 2005, available on the Internet at http://www.journalstar.com/articles/2005/07/31/editorial_main/doc42eac7669a0f6150349887.prt. A copy of the entire editorial is attached as Exhibit A.

high-cost fund for rural ILECs as a means of responsibly controlling fund growth, scores of ILECs sued in federal court to overturn the decision.[4]

Wireless consumers now contribute over $2 billion hard-earned dollars annually into a fund that overwhelmingly subsidizes a declining wireline voice network that draws substantially more funds than it did five years ago. The vast majority of rural ILECs remain rate-of-return regulated and all receive high-cost support on the modified embedded cost methodology. As such, incumbents are guaranteed a substantial return on investment and subsidization without the necessary transparency needed for the public (or even the Commission) to properly understand whether investments are necessary, efficient, or being spent lawfully. The Petitioners and their member companies have thus far opposed all efforts to modify the current system to encourage so-called "average schedule" companies to become more efficient, to encourage more efficient carriers to enter rural areas, and to properly steward the funds that consumers are paying into the high-cost program.

As for waste, fraud and abuse, the Petitioners' thinly veiled attacks on competitive ETCs ("CETCs") are disingenuous at best. We are constrained to note the indictment of owners of a Missouri ILEC who defrauded consumers out of perhaps millions of dollars in high-cost support[5] over a six-year period. Reportedly, some cooperative telcos are paying dividends to shareholders that exceed the

[4] *Alenco v. FCC*, 201 F.3d 608 (5th Cir. 2000).
[5] A copy of the indictment is attached as Exhibit B.

amount that each shareholder pays for telephone service each month.[6] Last year, Citizens Telephone Company paid out $300 million in dividends while receiving roughly $100 million from the high-cost fund.

Surely all parties can agree that there is work to be done to revamp the high-cost support fund and ensure that consumers are getting services they want. But as far as blaming CETCs for problems with the high-cost fund, enough is enough. It is time to squash the myth that wireless carriers, who draw 10% of the high-cost fund while paying in over half of the high-cost portion of the fund (or roughly 30% of the ***entire*** universal service fund) are the primary problem the FCC needs to focus on. In universal service terms, wireless is today the tail on a very large dog and the Petitioners' anticompetitive motives could not be more transparent.

Despite the fact that rural ILECs do not lose a single dollar of support when a CETC enters, the Petitioners advocate imposition of wireline-style regulations designed to protect consumers from monopoly business practices so as to discourage competitive entry. If the Petitioners' request for regulatory "parity for the sake of parity" prevails, consumers lose. In every state where an ARC member has been designated as a CETC, substantial new investments in infrastructure are being made and consumers are receiving new and upgraded wireless services that universal service was intended to deliver. In every area where high-quality service is provided, many rural consumers are for the first time being presented with a

[6] *See* "Fees Paid by All Phone Customers Help Rural Phone Firms Prosper," *USA Today* (online edition, 11/16/2004). A copy of the *USA Today* article is attached as Exhibit C.

viable substitute to wireline service. CETCs who are efficient competitors should be encouraged to enter rural areas, not saddled with monopoly regulations.[7]

By advocating the raising of barriers to competition without offering any avenue for the FCC to prudently manage ILEC fund use, the Petitioners continue to "confuse the requirement of sufficient support for universal service within a market in which telephone service providers compete for customers, which federal law mandates, with a guarantee of economic success for all providers."[8]

II. All ETCs Must Provide Service Upon Reasonable Request – There is No Requirement for *Any* Carrier to Serve Geographic Areas.

Boiled down to its essence, petitioners believe the Commission should require a carrier to construct a network that serves 100% of the ETC service area within five years.[9] The Commission has rejected this argument and it has been overwhelmingly rejected by the states.[10] If imposed, such a requirement could not possibly be competitively neutral because it is a requirement that ILECs could never meet. Today, wireline facilities provide service to a small fraction of the

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[7] *See Federal-State Joint Board on Universal Service, Report and Order,* 12 FCC Rcd 8776, 8859 (1997) ("*First Report and Order*") ("Nothing in section 214(e)(1), however, requires that a carrier be subject to the jurisdiction of a state commission in order to be designated an eligible telecommunications carrier. Thus tribal telephone companies, CMRS providers, and other carriers not subject to the full panoply of state regulation may still be designated as eligible telecommunications carriers.")

[8] *Alenco, supra,* 201 F.3d at 625.

[9] Petition at pp. 3-6.

[10] *See, e.g.,* RCC Minnesota, Inc. and Wireless Alliance, L.L.C. d/b/a Unicel, Docket No. TC03-193 at pp. 8-9 (S.D. PUC, June 6, 2004) ("RCC South Dakota Order"); Alaska DigiTel, LLC, Docket No. U-02-39 at pp. 8-10 (Reg. Comm'n of Alaska, Aug. 28, 2003) ("ADT Alaska Order"); RCC Atlantic Inc., Docket No. 6934 at pp. 30-32 (Vt. Pub. Serv. Bd., Sept. 29, 2004) ("RCC Vermont Order"); AT&T Wireless PCS of Cleveland, LLC et al., Docket No. UT-043011 at pp. 12-13 (Washington Util. & Transp. Comm'n, Apr. 13, 2004) ("AT&T Washington Order").

geography within their study areas. That is, consumers can only get wireline service at the end of wires. Service is not available on roads, in fields, on tractors, or anywhere other than the spot where the phone is attached. To impose a 100% geographic coverage requirement in a competitively neutral fashion would necessarily disqualify wireline carriers from participating in the universal service system.

The Petitioners also conveniently ignore that wireline networks were constructed in rural areas over many decades ***while they received implicit and explicit support***. Carriers were provided support and an opportunity to construct networks and gain a return on investment. The universal service system has never required ILECs to construct networks facilities to serve areas where no consumers request service. Rather, ILECs have been permitted to expand in an orderly fashion, working their way outward by building network infrastructure into increasingly rural areas, with subsidies. During that time, the ILECs were, by regulation, allowed to expand as a monopoly, never having to face the risk of being overtaken by competitors or being overwhelmed by the costs of network expansion.

Ironically, while Petitioners argue for higher barriers for CETCs, the system that ILECs have enjoyed for decades is not today available to CETCs. A CETC, which only receives support when it gets and keeps a customer, cannot simply report its costs and recover them through the high-cost program. Rather, it must invest risk capital to generate customers and support, in anticipation that these revenue streams will be sufficient to cover projected costs. There is no means for a

CETC to simply construct facilities and receive sufficient support, irrespective of how many customers sign up. Almost all CETCs are today taking on ETC obligations while receiving only a small portion of the high-cost support available to ILECs.[11] The current system forces competitors to invest efficiently to expand network facilities.

Petitioners also misconstrue the statutory requirement to "offer" service to require an ETC to construct facilities in order to satisfy its ETC obligations. Section 214(e)(1) could not be more plain in stating that a carrier may offer services "either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier)." The Commission must not follow the Petitioners down dead-end roads to rulings that contradict the statute Congress wrote.

Petitioners also claim that the rules enable a CETC to receive support for customers in high-cost areas without having an obligation to serve them.[12] This is patently absurd. A CETC can only ***get*** support if it ***serves*** a customer. So if a customer is not served, that customer cannot generate support for a CETC.

As for Petitioners' claim that they alone are burdened with COLR obligations, all ETCs, including CETCs, have the same COLR obligation – to respond to

[11] For example, Midwest Wireless and Rural Cellular Corp. collectively receive approximately one-third of the amount of high-cost support being provided to ILECs serving rural Minnesota, yet they have the same obligation to serve all customers on reasonable request throughout their respective ETC service areas.

[12] Petition at p. 6.

reasonable requests for service.[13] Such obligations have been traditionally applied to monopoly carriers that have fully mature networks which have been constructed with decades of implicit and explicit support, have been regulated to a profit by the state, and whose obligation is limited by tariff to serve only a business or residence address – nothing more. Generally, COLR obligations are cash generators for incumbents, because wireline carriers are not required to forgo a fair return on investment when fulfilling COLR obligations. CETCs have COLR obligations with no such guaranteed return on investment. In the entire universal service debate, perhaps no other argument has been so shamelessly abused as the COLR obligation.

If the Commission follows the Petitioners' suggestion to require geographic coverage, the result will inevitably be a *quid pro quo* similar to the largesse currently enjoyed by ILECs: a guaranteed return for all investments. There would be no other way to require service throughout a geographic area, as opposed to requiring service upon reasonable request. A geographic coverage requirement would not only fail the test of competitive neutrality, but it would wastefully and significantly increase the size of the federal high-cost fund.

The better course is one taken by the Commission: Require CETCs to use support to respond to all reasonable requests for service, to improve service levels and quality of service, and to submit progress reports to ensure that consumers are

[13] *See* RCC Minnesota, Inc., Docket No. UM-1083 at p. 10 (Or. PUC, June 24, 2004) ("RCC Oregon Order").

seeing the benefits that the high-cost fund is intended to deliver. In fact, these requirements should be imposed on all ETCs.

III. The Impact of ETC Designations on the Overall Fund is a Policy Matter – Not an Issue to be Adjudicated in Individual ETC Designation Proceedings.

Individual adjudications, wherein a state is called upon to determine whether the grant of a petition for ETC status will serve the public interest, is no place for policymaking at the national level. How to manage fund growth and regulate ETC designation criteria is a global policy matter that is completely divorced from individual cases. A state commission cannot reasonably be expected to make an informed judgment on the impact of any individual designation. The better question is whether support to the incumbents is necessary to provide consumers with their current service level and whether some of it should be used to accelerate deployment of modern wireless infrastructure in rural areas.

Petitioners' suggestion of benchmarks has been properly rejected by the FCC and in at least one state commission, where the issue was given exhaustive treatment.[14] No other proposal considered by the Joint Board and the Commission in the proceedings leading up to the *ETC Report and Order* will go so far as to prevent rural consumers from receiving the benefits that CETCs can bring. The Highland ETC designation case in West Virginia is a classic example.[15] There, the

[14] General Investigation into the establishment of conditions regarding granting ETC status to carriers and the establishment of uniform standards for determining ETC compliance with applicable federal requirements regarding use of federal universal service funds. (Case No. 03-1199-T-GI, West Virginia PSC).

[15] Highland Cellular, Inc., Case No. 02-1453-T-PC, Recommended Decision (W.V. PSC Sept. 15, 2003), *aff'd* by Final Order Aug. 27, 2004.

Consumer Advocate Division ("CAD") did not support Highland's entry into the highest-cost wire center in Frontier's service area (Frankford) and as a result Highland withdrew its petition there. Highland is now free to offer service in the lower-cost areas of its ETC service area, but is not be able to use high-cost support to advance universal service in the Frankford wire center. Those consumers were denied the possibility of Highland constructing facilities out to them. Presumptive benchmarks will similarly maroon consumers across the nation who could benefit from the designation of a CETC and the introduction of new services.

It is argued that some areas are so costly to serve that it makes no sense to designate an additional ETC when the area cannot support even one carrier without subsidy. This argument fails to recognize the fundamental command that Congress set forth for the FCC and the states in Section 254(b)(3) – to deliver to rural consumers ***choices*** in telecommunications services that are similar to those available in urban areas.[16] Such a simplistic view also ignores the substantial evidence now mounting that CETCs across the country, including every ARC member company, are today constructing facilities to serve consumers in some of the most remote areas of the country – evidence that many of these areas will support competition.

Indeed, ARC can see absolutely no public policy rationale for supporting potentially the least efficient service provider, that in many cases is not investing to

[16] 47 U.S.C. Section 254(b)(3).

modernize networks.[17] Telephone service in rural areas around the world in places like Cambodia, India, and Angola are more advanced than many rural areas in the U.S. because they were never burdened with wireline facilities. It is not surprising, therefore, that New York Times columnist Thomas Friedman recently quipped that as a presidential candidate his platform would be to promise to bring American cellular service up to the level of Ghana. Here, public policy should encourage the lowest-cost provider to enter markets so that scarce public resources are not wasted on inefficient technologies.

The Commission should not let the Petitioners' anticompetitive arguments obfuscate the real issue – how best to support efficient entry by carriers willing to take on reasonable ETC obligations. The Petitioners' requests to examine individual designations for effect on a high-cost fund that is roughly $4 billion dollars, and to adopt presumptive benchmarks, were both properly rejected on a substantial record. Reconsideration should similarly be denied.

IV. States May Not Be Compelled to Adopt the FCC's Criteria.

The Commission properly ruled that the statutory scheme provides state commissions with discretion to determine the public interest and apply ETC designation criteria that are consistent with the statutory scheme.[18] Some states

[17] ARC notes that a number of its member companies operate in states (e.g. Colorado, Nebraska, South Dakota) that have granted extensions of intermodal Local Number Portability ("LNP") deadlines based on ILEC assertions that their networks are antiquated and unable to support LNP functionality.

[18] *See ETC Report and Order, supra,* 20 FCC Rcd at 6397.

are already considering adoption of the FCC's ETC designation criteria.[19] Ironically, ILECs, including perhaps some of Petitioners' member companies, have argued in state rulemaking proceedings that the FCC's criteria should ***not*** be adopted because they don't go far enough.[20]

Here, the Petitioners attempt the opposite argument. In an effort to skirt the issue of the states' sole jurisdiction under Section 214(e)(2), the Petitioners cling to the thinnest of reeds by arguing that the FCC may impose minimum criteria on states pursuant to the statutory requirement that support be "predictable and sufficient." That directive, contained in 47 U.S.C. Section 254, is ***not*** among the statutory limitations on state ETC authority, which are contained in Sections 253(a)-(b) and 332(c) and forbid states from adopting criteria that would prohibit a carrier from providing service, regulate wireless rates and entry, or fail competitive neutrality. The plain statutory language contained in Section 214(e)(2) authorizes states to make the required public interest finding unless they explicitly cede that authority to the FCC.

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[19] ARC members are aware of proceedings pending in, among other states, Nebraska, Oregon, Minnesota, and Washington.

[20] *In the Matter of the Commission, on its own motion, seeking to amend Title 291, Chapter 5, Telecommunications Rules and Regulations, to add rules for designating eligible telecommunications carriers in Nebraska for the purpose of receiving federal universal service support, Rule and Regulation No. 165,* Comments of the Rural Independent Companies on Proposed Rule and Regulation 165 (filed May 27, 2005) (advocating several additions to the FCC's guidelines, including a requirement that wireless ETCs file tariffs, immediately provide equal access, and guarantee signal strength that is "reasonably adequate as defined in the regulations of the Rural Utilities Service").

Petitioners' concerns about states having no incentive to properly police waste, fraud and abuse[21] are perplexing, given that ILECs have opposed some state commission proposals to increase oversight of all ETCs' use of universal service support and to require additional evidence that support is being properly used before issuing the required October 1 certification.[22] Accountability for the use of funds by CETCs that are designated by the FCC is significantly greater than for ILECs in many states.[23] CETCs are routinely providing to state commissions detailed information concerning how support received each year is being used prior to being recertified by state PUCs.[24]

States are taking seriously their obligation to ensure that consumers receive the benefits of improved service quality and new investment in network facilities in high-cost areas. It has been ARC's experience that state commissions have been very careful to see that high-cost support is used for the intended purposes and ARC

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[21] Petition at p. 13.

[22] *See* Possible Changes to the Commission's Annual Certification Requirements Related to Eligible Telecommunications Carriers' (ETCs) Use of the Federal Universal Service Support, PUC Docket No. P999/M-05-741, Comments of Citizens Telecommunications Company of Minnesota LLC and Frontier Communications of Minnesota LLC at pp. 5-6; Comments of the Minnesota Independent Coalition at pp. 2-3 (filed June 10, 2005).

[23] Just last month, undersigned counsel attended a workshop at the Washington Utilities and Transportation Commission to examine, among other things, possible changes in ETC certification requirements (Docket No. UT-053021). During the workshop a commissioner noted that an ILEC receives millions of dollars from the high-cost fund annually on the strength of a one-paragraph certification.

[24] For example, ARC members in Oregon, Mississippi, Vermont, Maine, Kansas, Colorado, South Dakota and West Virginia are required to submit detailed reports each year.

member companies are building new network facilities to unserved and underserved areas to the greatest extent possible.[25]

The Commission should reaffirm its position that the Congress gave states authority under Section 214(e)(2) to determine ETC designation criteria consistent with the overall statutory scheme.

V. The Decision To Apply ETC Designation Criteria To Newly Filed Petitions Was Legally Correct And A Sound Policy Judgment.

Legally, the Commission did the right thing in applying existing rules and policies to pending petitions for ETC status. It is axiomatic that an applicant is entitled to a decision under the rules and policies in effect at the time it files its application.[26] It would be unjust and inequitable to require carriers that filed ETC petitions under one set of requirements to hit a moving target, essentially depriving them of the ability to rely on a stable, predictable regulatory environment. Instead, the Commission struck a proper balance, requiring all existing ETCs and carriers with currently pending petitions to come into compliance, but giving them until October 2006 to undertake the necessary planning and adjustments to ensure that they will meet the new requirements.

There is no basis in the record for the Commission to reconsider this matter and most certainly the Commission's decision to accord petitioners the legal right to

[25] ARC's Reply Comments, filed in this docket on September 21, 2004, included as Exhibit 4 a 57-page compilation of public announcements of new cell site construction with high-cost support.

[26] *See AT&T Co. v. FCC*, 978 F.2d 727, 732 (D.C. Cir. 1992); CSRA Cablevision, Inc., 47 FCC 2d 572 at para. 6 (1974).

have petitions processed under rules and policies in effect at the time the petitions were filed was the right one.

VI. Conclusion.

The Commission should reject every aspect of the Petitioners' request for reconsideration. Not a single proposal contained in the Petition will benefit consumers, which must be the central focus of every decision. Most if not all of the requests can be rejected because they run counter to the statute Congress wrote or they fail the core principle of competitive neutrality. Lastly, the Petitioners' continuing *ad hominem* attacks on CETCs as a means of limiting fund growth must be rejected in favor of an objective and fair analysis, carried out in the ongoing rulemaking proceedings in this docket, of how best to manage the fund and ensure that consumers receive modern services and choices in telecommunications services by efficient service providers.

Respectfully submitted,

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August 4, 2005